

Gitelman, Steve (Contractor)

From: Gitelman, Steve (Contractor)
Sent: Wednesday, February 6, 2019 10:06 AM
To: '56243-03122648@requests.muckrock.com'
Subject: FW: Freedom of Information Act Request #DOC-OS-2018-001571
Attachments: FOIA DOC-OS-2018-001571 Inquiry.pdf

Attached please find the response sent to your January 25, 2019 inquiry. As indicated in that communication, we will notify you when we are in a position to produce responsive records.

Steven Gitelman
FOIA/PA Analyst (Contractor)
U.S. Department of Commerce
Office of Privacy and Open Government
202-482-8294
Sgitelman1@doc.gov

From: FOIA, Electronic
Sent: Wednesday, February 6, 2019 9:26 AM
To: Gitelman, Steve (Contractor) <SGitelman1@doc.gov>
Subject: FW: Freedom of Information Act Request #DOC-OS-2018-001571

FYI

From: 56243-03122648@requests.muckrock.com <56243-03122648@requests.muckrock.com>
Sent: Tuesday, February 5, 2019 1:26 PM
To: FOIA, Electronic <EFOIA@doc.gov>
Subject: RE: Freedom of Information Act Request #DOC-OS-2018-001571

Department of Commerce
FOIA Office
14th and Constitution Avenue, N.W.
Washington, DC 20230

February 5, 2019

This is a follow up to request number DOC-OS-2018-001571:

This request was originally submitted via portal to FOIA Online. It was last responded to on Jan. 25, 2019 via email by "FOIA, Electronic" <EFOIA@doc.gov>. Due to issues with the original communication method, we are now directing this request to you.

To Whom It May Concern:

I wanted to follow up on the following request, copied below. Please let me know when I can expect to receive a response.

Thanks for your help, and let me know if further clarification is needed.

Filed via MuckRock.com
E-mail (Preferred): 56243-03122648@requests.muckrock.com

Upload documents directly: https://www.muckrock.com/accounts/agency_login/us-department-of-commerce-65/sf-311-2017-department-of-commerce-56243/?uuid-login=9422f7aa-400d-4868-a340-ec3b61b74176&email=efoia%40doc.gov#agency-reply

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News
DEPT MR 56243
411A Highland Ave
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On Jan. 25, 2019:
Sir/Madame:

This matter has been perfected and we are working on getting a response to you as soon as is reasonably possible.

We are not in a position to estimate the precise amount of time that will be necessary to complete our response, but once any responsive records have been collected, reviewed and readied for production, we will notify you.

Feel free to contact us with any additional questions.

Steven Gitelman
FOIA/PA Analyst (Contractor)
U.S. Department of Commerce
Office of Privacy and Open Government
202-482-8294
Sgitelman1@doc.gov

On Oct. 12, 2018:

The FOIA request - DOC-OS-2018-001571 description has been modified. Additional details for this item are as follows:

* Tracking Number: DOC-OS-2018-001571

* Requester: Emma Best

* Submitted Date: 07/05/2018

* Description: Copies of all drafted, submitted or received SF-311 forms (<https://www.archives.gov/files/isoo/security-forms/sf311.pdf>) produced in the year prior to the receipt of this FOIA request. SF-311 forms may also be identified as Agency Security Classification Management Program Data. I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

On June 22, 2018:

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows: (<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d281995c1c>)

* Tracking Number: DOC-OS-2018-001571

* Requester Name: Emma Best

* Date Submitted: 06/22/2018

* Request Status: Submitted

* Description: Copies of all drafted, submitted or received SF-311 forms (<https://www.archives.gov/files/isoo/security-forms/sf311.pdf>) produced in the year prior to the receipt of this FOIA request. SF-311 forms may also be identified as Agency Security Classification Management Program Data. I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance. Additionally, case law states that "proof of the ability to disseminate the released information to a broad cross- section of the public is not required." Judicial Watch, Inc. v. Dep't of Justice, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see Carney v. U.S. Dep't of Justice, 19 F.3d 807, 814-15 (2d Cir. 1994). Further, courts have held that "qualified because it also had "firm" plans to "publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media.

On June 17, 2018:

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

Copies of all drafted, submitted or received SF-311 forms (<https://www.archives.gov/files/isoo/security-forms/sf311.pdf>) produced in the year prior to the receipt of this FOIA request. SF-311 forms may also be identified as Agency Security Classification Management Program Data.

I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

Additionally, case law states that "proof of the ability to disseminate the released information to a broad cross- section of the public is not required." Judicial Watch, Inc. v. Dep't of Justice, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see Carney v. U.S. Dep't of Justice, 19 F.3d 807, 814-15 (2d Cir. 1994). Further, courts have held that "qualified because it also had "firm" plans to "publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media.

Additionally, courts have held that the news media status "focuses on the nature of the requester, not its request. The provision requires that the request be "made by" a representative of the news media. Id. § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request itself are moot for the purposes of determining the appropriate fee category.

As my primary purpose is to inform about government activities by reporting on it and making the raw data available, I request that fees be waived.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Emma Best

Filed via MuckRock.com

E-mail (Preferred): 56243-03122648@requests.muckrock.com

Upload documents directly: https://www.muckrock.com/accounts/agency_login/us-department-of-commerce-65/sf-311-2017-department-of-commerce-56243/?uuid-login=9422f7aa-400d-4868-a340-ec3b61b74176&email=efoia%40doc.gov#agency-reply

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